



MAGISTRATE COURT OF COBB COUNTY

32 Waddell Street Marietta, Georgia 30090
Clerk of Court - Accounting Division - Phone: (770) 528-6989

Chief Magistrate
Joyette M. Holmes

NOTICE FROM CLERK OF COURT

Date: December 21, 2015

Subject: STATUS OF GARNISHMENT CASES – ***2nd UPDATE***

From: Tahnicia Phillips, Clerk of Magistrate Court

With the ruling of the United States District Court in *Strickland v. Alexander*, 1:12-CV-02735-MHS (N.D.Ga. Sep 8, 2015) read with its October 5, 2015-issued Order and the Amended Judgment and November 10, 2015-issued Order, the constitutionality of the procedure through which garnishment cases against financial institutions filed under O.C.G.A. § 18-4-60 et seq. ("bank garnishment cases") are administered throughout the state remains in question. Until the constitutional questions are resolved and the rights of the parties to the bank garnishment cases are clarified, the Office of the Clerk of the Magistrate Court of Cobb County ("Clerk of Court") will follow the protocol set out below:

1.

With the District Court's October 5 decision that wage-based garnishment cases filed against a judgment debtor's employer are unaffected by its September 8 ruling, **wage-based garnishments will be processed in accordance with applicable law.** The Clerk of Court will continue to accept and file documents related to any bank garnishment cases, including all garnishee answers.

2.

In light of the District Court's ruling, effective as of the September 22, 2015 Notice From Clerk of Court, the Clerk of Court will not be able to otherwise process any bank garnishment cases pertaining to individual persons ("individual bank garnishment cases") until further court order or legislative direction. However, in its November 9 Order, the District Court amended its effective Order so as not to apply to "funds of debtors that are LLCs, corporations, or other non-individual institutions." As a result and with no further amendments to date, **the Clerk of Court will resume processing bank garnishments for these non-individual institutions as of December 21, 2015, per applicable law.**

3.

Further, while no summons for all bank garnishment cases filed after September 8, 2015 were issued, **as of December 21, 2015, the Clerk of Court will issue summons for bank garnishments for non-individual institutions ("non-individual bank garnishment cases") per applicable law. The Clerk of Court will not issue summons for any individual bank garnishment cases, until further court order or legislative direction.**

4.

While any monies related to all bank garnishment cases that were submitted to the Clerk of Court after September 8, 2015 have been returned; **as of December 21, 2015, the Clerk of Court will process monies related to non-institution bank garnishment cases per applicable law. The Clerk of will not remit any monetary deposits related to any individual bank garnishment cases into the Registry of the Court without court order or legislative direction.**

5.

As to any monies related to any bank garnishment cases received by the Clerk of Court before September 8, 2015 and remaining in the Registry of the Court, **as of December 21, 2015, the Clerk of Court will disburse funds related to any non-individual bank garnishment cases per applicable law. The Court will not disburse funds related to any individual bank garnishment cases from the Registry of the Court without court order or legislative direction.** This protocol is not intended to preclude Defendants in individual bank garnishment cases whose monies are both held in the Registry of the Court AND who believe the monies are subject to exemption from setting out a written claim and seeking a hearing before the Magistrate Court for return of exempt monies. Parties are advised to consult counsel to determine if the monies are subject to exemption from garnishment.

6.

Any change in protocol will be made public in the form of an updated NOTICE FROM CLERK OF COURT available through the website for Magistrate Court of Cobb County (URL: <http://magistrate.cobbcountyga.gov>) and posted at the Office of the Clerk of Court.